

Commodity Futures Trading Commission

§ 12.25

be fifteen (15) days from the date of service of the order by the Proceedings Clerk.

(d) *Effect of receivership or bankruptcy proceedings.* (1) The Director of the Office of Proceedings shall refuse to institute an elected decisional procedure as to a respondent in any reparation complaint filed pursuant to this part who is the subject of a parallel proceeding described in paragraph (a)(2) or (a)(3) of this section, and shall notify all parties, including the receiver or trustee, that as to that respondent a reparation proceeding shall not be instituted. The effective date of the Director's action shall be fifteen (15) days from the date of service of the notice thereof.

(2) A proceeding in which an elected decisional procedure has been commenced shall be ordered dismissed, without prejudice, as to any respondent who becomes the subject of a parallel proceeding described in paragraph (a)(2) or (a)(3) of this section if notice pursuant to paragraph (b) of this section is received before the filing of an initial decision (or before a final decision is issued pursuant to § 12.106) as to that respondent. The Proceedings Clerk shall notify all parties, including the receiver or trustee, of the order. The effective date of the order shall be fifteen (15) days from the date of the service of the order by the Proceedings Clerk.

(e) *Exceptions.* At the time notice of a parallel proceeding is filed pursuant to paragraph (b) of this section, or any time thereafter, any party, or the receiver or trustee, may file and serve upon other parties a statement in support of or in opposition to any action taken or to be taken pursuant to paragraph (c) or (d) of this section. This statement shall be addressed to the Office of Proceedings, attention of the Proceedings Clerk. Upon receipt of any such statement, the Proceedings Clerk shall immediately forward the statement to the official with responsibility over the case. The notice and the statements filed by the parties shall be reviewed by that official who, on or before the effective date of action taken pursuant to paragraphs (c)(1), (c)(2), (d)(1), and (d)(2), of this section, may take such actions as, in his opinion,

are necessary to ensure that the parties to the matter or proceedings are not unduly prejudiced.

(f) *No right of appeal to the Commission.* Any action taken, or order issued, pursuant to paragraphs (c)(1), (c)(2), (d)(1), or (d)(2), of this section that has become effective shall be deemed a final order which is not subject to appeal pursuant to subpart F of these rules.

§ 12.25 Filing fees.

(a) *Fees payable upon filing a complaint.* (1) A complainant who, in the complaint, has elected the voluntary decisional procedure shall, at the time of filing the complaint, pay a filing fee of \$50.00;

(2) A complainant who, in the complaint wherein the amount of damages claimed does not exceed \$30,000, exclusive of interest and costs, has not elected the voluntary decisional procedure shall, at the time of filing the complaint, pay a filing fee of \$125.00.

(3) A complainant who, in the complaint wherein the amount of damages claimed exceeds \$30,000, exclusive of interest and costs, has not elected the voluntary decisional procedure shall, at the time of filing the complaint, pay a filing fee of \$250.00.

(b) *Fees payable upon filing an answer.* (1) If a complainant, in the complaint, has elected the voluntary decisional procedure, a respondent who, in his answer, elects the summary decisional procedure (available only where the amount of damages claimed in the complaint or as counterclaims does not exceed \$30,000) shall, at the time of filing the answer, pay a filing fee of \$75.00.

(2) If a complainant, in the complaint, has elected the voluntary decisional procedure, a respondent who, in his answer, elects the formal decisional procedure (available only where the amount of damages claimed in the complaint or as counterclaims exceeds \$30,000) shall, at the time of filing the answer, pay a filing fee of \$200.00.

(c) *Fees payable upon filing a reply.* In any case in which a counterclaim has been made, unless a complainant in the complaint, or the respondent in an answer, has elected the summary

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decisional procedure or the formal decisional procedure a complainant, who in his reply elects either of these procedures, shall, at the time of filing the reply, pay a filing fee of \$75.00 or \$200.00, respectively, depending whether the procedure elected by complainant is pursuant to subparts D or E.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984, as amended at 59 FR 9637, Mar. 1, 1994]

§ 12.26 Commencement of a reparation proceeding.

(a) *Commencement of voluntary decisional proceeding.* Where complainant and respondent in the complaint and answer have elected the voluntary decisional procedure pursuant to subpart C of these rules and the complainant has paid the filing fee required by § 12.25 of these rules, the Director of the Office of Proceedings shall, if in his opinion the facts warrant taking such action, forward the pleadings and all materials of record to the Proceedings Clerk for a proceeding to be conducted in accordance with subpart C of these rules. The Proceedings Clerk shall forthwith notify the parties of such action. Such notification shall be accompanied by an order issued by the Proceedings Clerk requiring the parties to complete all discovery, as provided in subpart B of these rules, within 50 days thereafter. A voluntary decisional proceeding commences upon service of such notification and order. As soon as practicable after service of such notification, the Proceedings Clerk shall assign the case to a Judgment Officer for a final decision.

(b) *Commencement of summary decisional proceeding.* Where the amount claimed as damages, exclusive of interest and costs, in the complaint or in counterclaim does not exceed \$30,000, and either a complainant or a respondent in the complaint, answer, or reply, has elected the summary decisional procedure pursuant to subpart D of these rules, and has paid the filing fee required by § 12.25, the Director of the Office of Proceedings shall, if in his opinion the facts warrant taking such action, forward the pleadings and all materials of record to the Proceedings Clerk for a proceeding to be conducted in accordance with subpart D of these rules. The Proceedings Clerk shall

forthwith notify the parties of such action. Such notification shall be accompanied by an order issued by the Proceedings Clerk requiring the parties to complete all discovery, as provided in subpart B of these rules, within 50 days thereafter. A summary decisional proceeding commences upon service of such notification. As soon as practicable after service of such notification, the Proceedings Clerk shall assign the case to a Judgment Officer for disposition.

(c) *Commencement of formal decisional proceeding.* Where the amount claimed as damages in the complaint or as counterclaims exceeds \$30,000, exclusive of interest and costs, and either a complainant or a respondent in the complaint, answer or reply, has elected the formal decisional procedure pursuant to subpart E of these rules, and has paid the filing fee required by § 12.25, the Director of the Office of Proceedings shall, if in his opinion the facts warrant taking such action, forward the pleadings and the materials of record to the Proceedings Clerk for a proceeding to be conducted in accordance with subpart E of these rules. The Proceedings Clerk shall forthwith notify the parties of such action. Such notification shall be accompanied by an order issued by the Proceedings Clerk requiring the parties to complete all discovery, as provided in subpart B, within 50 days thereafter. A formal decisional proceeding commences upon service of such notification and order. As soon as practicable after service of such notification, the Proceedings Clerk shall assign the case to an Administrative Law Judge for disposition.

[49 FR 6621, Feb. 22, 1984, as amended at 59 FR 9637, Mar. 1, 1994]

§ 12.27 Termination of consideration of pleadings.

If the Director of the Office of Proceedings should determine not to proceed in a manner set forth in § 12.26 (a), (b), or (c), consideration of the complaint and the answer (and reply, if any) shall terminate, and no proceeding shall be held on the allegations in any such pleadings. Such termination shall be regarded by the Commission as without prejudice to the